



**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES
BRANCH FISHERIES MANAGEMENT**

**DRAFT POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE
DEMERSAL SHARK FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE
ALLOCATION AND MANAGEMENT OF FISHING RIGHTS: 2013**
(available at www.daff.gov.za)

This document is also available in Afrikaans, isiXhosa and isiZulu

Hierdie document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar

Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

TABLE OF CONTENTS

1.	Introduction	3
2.	Profile of the fishery	3
3.	Over-arching fishery objectives	4
4.	Duration of rights	5
5.	New entrants	5
6.	Evaluation criteria	6
6.1	Exclusionary criteria	6
(a)	Form of the applicant:	6
(b)	Compliance:	6
(c)	Paper quotas:	6
(d)	Access to a suitable vessel:	6
(e)	Non-utilisation:	6
6.2	Comparative balancing criteria	7
(a)	Transformation	7
(b)	Investment in the fishery	7
(c)	Performance	8
(d)	Reliance on demersal shark	8
(e)	Local economic development	9
(f)	Jobs	9
(g)	Non-payment of fish levies	9
6.3	Effort allocations	10
7.	Suitable vessels	10
8.	Multi-sector involvement	10
9.	Application Fees and Levies	10
10.	Management measures	11
10.1	Ecosystem approach to fisheries management	11
10.2	By-catch mitigation	11
11.	Performance measuring	11
12.	Observer programme	12
13.	Permit conditions	12

1. Introduction

This policy on the allocation and management of fishing rights in the demersal shark fishery is issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”). This policy must be read with the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the General Fisheries Policy”).

The purpose of this policy is to set out the considerations that will apply to the allocation of demersal shark fishing rights. Many of these considerations are not new. They have been applied by the Department Agriculture, Forestry and Fisheries: Branch Fisheries Management (“the Department”) when allocating rights in the past and to an extent this policy documents those considerations.

Certain post-rights allocation management policies are also presented in this policy.

The Minister has delegated the section 18 power to allocate demersal shark fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 (“the MLRA”) to a senior official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Profile of the fishery

After interest in the tuna longline fishery waned in the mid 1960’s, fishers turned their attention to other more lucrative stocks. Fishers used longline gear to target hake and kingklip under the guise of shark permits. When the Department reduced the by-catch limits of hake and kingklip in the shark fishery fishing effort decreased exponentially. Prior to 1998 more than 30 permits were issued to target shark, but due to poor performance in the fishery the total applied effort (“TAE”) was reduced to 23 permits in 1998. The TAE was further reduced for 2004 to 11 permits due to poor performance. Since 2005, Demersal Shark TAE was set at 6 vessels.

In the past shark longline fishery targets both pelagic sharks (blue and mako sharks) and demersal sharks (hound sharks, namely *Galeorhinus galeus* and *Mustelus mustelus*) by using either surface or bottom set gears respectively. In general the vessels targeting hound sharks are often smaller than those targeting pelagic sharks as the area of operation is restricted to coastal waters. As the gear used to target blue and mako sharks is similar to that used for targeting tunas and swordfish, a management decision was taken to remove pelagic shark fishing from the shark longline sector and manage it as part of the large pelagic sector from the start of 2006.

Many shark permit holders hold other permits in sectors such as demersal shark, hake longline and tuna pole. Consequently, the shark fishery is generally used to keep the vessels busy when not engaged in other sectors.

Sharks are generally long-lived species that display low fecundity, slow growth rates and late maturation, which makes them particularly susceptible to overexploitation. Further, sharks are apex predators and the removal of these species could drastically alter marine ecosystems. Shark recruitment is strongly associated with adult biomass. Accordingly, the more adults in a population the more productive the fishery.

The number of vessels active in the demersal fishery has fluctuated annually, with the number steadily increasing to 14 vessels in 1999. Only five vessels were active in 2003. As the fishery is seasonal (with the highest catch rates experienced in winter) it is difficult to assess yearly CPUE, which has fluctuated widely. Prior to 2001 catches of *G. galeus* averaged 34 MT per year, but since 2001 catches have declined to below 20 MT per year, with less than 3 MT landed in 2004 (the second lowest catch on record). In 2001-2002 a stock assessment indicated that the main targeted species *Galeorhinus galeus* was optimally exploited, despite only three longliners operating in 2001 and two in 2002. This result confirms that sharks cannot sustain large fisheries.

3. Over-arching fishery objectives

The over-arching objectives of allocating fishing rights in this fishery are to:

- Increase the transformation profile of this fishery;
- Permit only the targeting of demersal sharks (see further **Annexure A**). Pelagic sharks may not be targeted;
- Reduce the by-catches of hake and kingklip;
- Encourage local value adding to demersal sharks to increase the value of this fishery; and
- Ensure the environmental and economic sustainability of the fishery.

4. Duration of rights

Having regard to –

- the transformation profile of the fishery; and
- the present marginal state of this fishery,

the Department will allocate rights for a period of 7 years (01 January 2014 to 31 December 2020). The Department will regularly evaluate right holders against predetermined performance criteria (*see Paragraph 11 below*).

5. New entrants

New entrant applicants will be considered to replace those right holders who have failed to transform, who have failed to perform and/or who have not complied with the provisions of the MLRA.

The Department does not foresee authorising more than 6 vessels to target demersal sharks. Investigate the reasons why there is no fishing allowed North of East London to the Mozambique border.

6. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and right-holder applicants will then be separately assessed in terms of a set of weighted “*comparative balancing criteria*”. A cut-off score or rank will then be determined in order to select the successful applicants. A proportion of the TAE will then be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

6.1 Exclusionary criteria

Apart from the criteria described in the General Policy pertaining to the lodgment of applications and material defects, the Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984, the Companies Act 71 of 1973 and those defined in the Act.
- (b) **Compliance:** Applicants, including their members, directors or controlling shareholders that have been convicted of a serious offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a demersal shark fishing right. Applicants, including their members, directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a demersal shark fishing right. Other breaches of the MLRA will adversely affect the evaluation of applications, as specified below.
- (c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (*see paragraph 7 below*).
- (e) **Non-utilisation:** Right-holders that failed to utilise their demersal shark fishing right will not be re-allocated a fishing right.

6.2 **Comparative balancing criteria**

Although the following criteria will generally be applied to both right-holder applicants and new entrant applicants, the weighting that will be applied to each category will differ. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the “*transformation*” criterion.

(a) Transformation

Applicants will be assessed and scored on –

- The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- Whether employees (other than top salary earners) benefit from an employee share scheme;
- Affirmative procurement;
- Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The Department may also have regard to the wage structure of the applicant, between the highest and lowest paid employees;
- Compliance with legislation on skills development and the amounts spent on the training of blacks and participation in learnership programmes; and
- Corporate social investment.

(b) Investment in the fishery

As far as right-holder applicants are concerned, the Department will specifically consider:

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will be considered. Right-holder applicants will not be rewarded for having concluded vessel purchase agreements;
- Right-holder applicants will not be rewarded for having concluded purchase agreements, charter agreements or catching agreements.
- Investments in processing and marketing infrastructure. In this regard, the Department will reward right-holder applicants that have invested in demersal shark processing and marketing initiatives.

As far as new entrant applicants are concerned, the Department will consider what investments have been committed to in the form of vessels, processing and marketing infrastructure. In addition, new entrant applicants will have to demonstrate that they have the knowledge, skill and ability to participate in the demersal shark fishery.

(c) Performance

Right-holder applicants will be assessed by having regard to their demersal shark fishing performance including investment over the period (2006 to 2013).

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to fish for demersal shark.

(d) Reliance on demersal shark

Preference will be given to applicants whose significant portion of gross annual income is derived from demersal shark longline and no new entrants will be considered to be reliant on demersal shark longline. Applicants or their controlling shareholders who derive any income from sources outside of the fishing industry

will be penalised.

(e) Local economic development

The Department will positively score those applicants that elect to land and process their catches the harbours outside metropolitan areas.

(f) Jobs

Job creation and increases in jobs as a result of the allocation of long term fishing rights will be rewarded, and in particular, applicants that have provided their employees with –

- Full time employment;
- Medical aid and pension; and
- Safe working conditions.

(g) Non-payment of fish levies

The Department requires every right-holder to pay a levy on the targeted fish landed. A number of right-holders have either not paid their levies or have under-reported catches to, *inter alia*, avoid the payment of levies. The former will be penalised in the comparative balancing process as set out below. The latter will be excluded. However, if any such applicant qualifies for a right, a fishing permit will not be issued until the total amount of outstanding levies (plus interest) has been paid to the Department.

(h) Compliance

Right-holders, including their members, directors or controlling shareholders, who are currently being investigated for breaches of the MLRA, whether criminal or

administrative, may not be allocated a demersal shark fishing right until the conclusion of the investigation.

Serious infringements of the MLRA, including its regulations, by the applicant, its directors or controlling shareholders will be negatively scored. To be aligned with the General Policy.

6.3 Effort allocations

The Department will allocate a maximum of six fishing rights authorising a maximum of 6 fishing vessels access to the fishery. Accordingly, each successful applicant will be entitled to use only one vessel.

7. Suitable vessels

A suitable vessel in the demersal shark fishery is a vessel that:

- has a minimum SAMSA registered length of approximately ten metres. Smaller vessels may be considered on the basis of their demersal shark fishing performance;
- has a functioning vessel monitoring system; and
- is geared for demersal shark longline fishing.

8. Multi-sector involvement

Right holders in the demersal shark fishery are not precluded or discouraged in the holding of rights in more than one fishery.

9. Application Fees and Levies

The application fee for this fishery will be determined having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2014 will be determined after consultation with right holders. The levies payable will be utilised by the Department for covering the annual costs of management, compliance and research.

10. Management measures

The management measures discussed below reflect a number of the Department's principal post-right allocation management intentions for this fishery.

10.1 Ecosystem approach to fisheries management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy which recognises that fishing and associated land-based activities impact on the broader marine environment. This part of the demersal shark fishery policy does not attempt to provide a policy statement on EAF in the demersal shark fishery.

10.2 By-catch mitigation

The by-catches of hake and kingklip in this sector are of concern. Current by-catch limits for these species will be retained and may be reduced further. By-catch limitations will also be introduced for *blue* and *mako sharks* to prevent the targeting of these species.

11. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the fishing rights. It is envisaged that the first performance measuring exercise will take place after a year, and thereafter every three years.

Although the Department will finalise the precise criteria against which right-holders will be measured after the allocation of fishing rights, and after consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- by-catch mitigation;
- demersal shark catching performance; and
- compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

12. Observer programme

The Department's current observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

13. Permit conditions

Permit conditions for this fishery will be reviewed annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.

ANNEXURE A

Right Holders in the demersal longline shark fishery shall only be entitled to target sharks of the genus *Mustelus* and *Galeorhinus*.

Right holders may not harvest or land oceanic sharks, including *blue sharks*, *mako*, *hammerhead*, *oceanic whitetip* and *thresher* sharks. In addition, sharks on the protected species list, including *ragged tooth sharks* and *great whites* may not be harvested.

Notwithstanding the above, right holders shall not be permitted to target any species of shark in the waters adjacent to the Wild Coast and KwaZulu-Natal coastlines.